

SENATE BILL 831

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 43;
Title 47, Chapter 18 and Title 55, relative to
consumer protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding
the following as a new part:

47-18-3101.

As used in this part:

(1) "Authorized dealer" means an individual, corporation, or limited
liability company authorized by a manufacturer or distributor to sell, barter, or
exchange a particular make of new farm machinery;

(2) "Comparable farm machinery" means an identical or substantially
similar replacement piece of farm machinery;

(3) "Consumer" means:

(A) A person who purchases or leases a piece of new farm
machinery for purposes other than resale; or

(B) A person entitled to enforce the obligations of a warranty
during the quality assurance period;

(4) "Distributor" means any person who sells or distributes new and
unused farm machinery to authorized dealers;

(5) "Express warranty" has the same meaning as described in § 47-2-
313;

(6) "Farm machinery":

(A) Means self-propelled equipment or machinery primarily used for agricultural purposes purchased or leased by a consumer for the first time from a manufacturer, distributor, or authorized dealer; and

(B) Does not include an off-highway vehicle as defined in § 55-8-101(12) and (13), an all-terrain vehicle as defined in § 55-8-101(1), equipment under twenty-five (25) horsepower, lawn tractors, or lawn mowers;

(7) "Full purchase price" means the cost paid by a consumer, including any collateral charge;

(8) "Manufacturer" means a person who manufactures, assembles, or imports new farm machinery;

(9) "Manufacturer's warranty" means a warranty given by the manufacturer of farm machinery against defects in the components and workmanship and a promise to cure defects;

(10) "Nonconformity" means any defect or condition affecting a piece of farm machinery that:

(A) Does not conform with the terms of an express warranty issued by a manufacturer to a consumer;

(B) Significantly impairs the use, value, or safe operation of the farm machinery; or

(C) Is not the result of abuse, neglect, or failure by a consumer to operate and maintain the farm machinery according to a manufacturer's operator manual or maintenance recommendations;

(11) "Person" means a natural person, partnership, corporation, association, trust, estate, or other legal entity;

(12) "Quality assurance period" means the earliest of the following:

(A) Twelve (12) months after the date of delivery of new farm machinery to a consumer;

(B) Twelve (12) months after the date of delivery of any comparable farm machinery to a consumer; or

(C) After the first six hundred (600) hours of operation of the farm machinery by a consumer;

(13) "Reasonable allowance for use" means an amount attributable to use by a consumer:

(A) Before the consumer's first report of a nonconformity to a manufacturer, distributor, or authorized dealer;

(B) During any period of use of the farm machinery subsequent to the first report of nonconformity if the farm machinery is not out of service by reason of repair of a reported nonconformity; or

(C) Of any comparable farm machinery provided by the manufacturer, distributor, or an authorized dealer to a consumer while the farm machinery purchased by the consumer is out of service for repair of a reported nonconformity, but not less than the fair lease value of the farm machinery;

(14) "Reasonable number of repair attempts" means:

(A) Three (3) attempts to repair the same nonconformity, the total cost of which equals at least thirty percent (30%) of the full purchase price of the farm machinery; or

(B) Five (5) attempts to repair any nonconformity, the total cost of which equals at least fifty percent (50%) of the full purchase price of the farm machinery; and

(15) "Seller":

(A) Means a person who sells, or contracts to sell, farm machinery at retail; and

(B) Includes an authorized dealer, distributor, or manufacturer.

47-18-3102.

(a) At the consumer's discretion, a manufacturer shall replace farm machinery with comparable farm machinery or accept return of the farm machinery from a consumer and refund to the consumer the full purchase price and related repair costs specific to the machinery, less a reasonable allowance for use and a reasonable offset for physical damage to the farm machinery caused by the consumer, if:

(1) The consumer provides written notice by certified mail to the manufacturer, distributor, or authorized dealer that a piece of farm machinery does not conform to an applicable express warranty or manufacturer's warranty during the quality assurance period;

(2) The nonconformity substantially impairs the use of the farm machinery; and

(3) The manufacturer, its agent, the distributor, or the authorized dealer cannot conform the farm machinery to an applicable express warranty or manufacturer's warranty after a reasonable number of repair attempts.

(b) The consumer shall furnish clear title to, and possession of, the nonconforming farm machinery to the manufacturer, distributor, or authorized dealer at the time of a refund or replacement.

47-18-3103.

It is an affirmative defense to a claim under this part that:

- (1) A defect or condition does not substantially impair the use, value, or safety of the farm machinery;
- (2) A nonconformity is the result of an accident, abuse, neglect, or unauthorized modification of the farm machinery by a person other than the manufacturer, an agent of a manufacturer, the distributor, or an authorized dealer; or
- (3) The consumer did not file a claim in good faith.

47-18-3104.

(a) A consumer may bring a civil action to enforce this part in a court of competent jurisdiction. A consumer must bring a legal action under this section within two (2) years after the date the consumer first reports a nonconformity to a manufacturer, an agent of a manufacturer, or an authorized dealer.

(b) This part does not limit the rights or remedies available to a consumer under any other applicable law.

(c) If a consumer prevails in a legal proceeding under this part, then the consumer may recover, as part of the judgment, a sum equal to the aggregate amount of costs and expenses, including attorney's fees, based on:

- (1) Actual time expended by an attorney; and
- (2) Charges reasonably incurred by the consumer in connection with the commencement and prosecution of an action under this section as determined by a court.

(d) Before filing a legal action to enforce this part in a court of competent jurisdiction, the consumer and the manufacturer, distributor, or authorized dealer may,

upon mutual agreement and in good faith, attempt to resolve any issue or claim in dispute through the use of an impartial third-party mediator.

SECTION 2. This act takes effect July 1, 2021, and applies to sales of farm machinery made on or after that date, the public welfare requiring it.